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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|----------------------------------|-------------|----------------------|---------------------|------------------|
| 10/687,302 | 10/14/2003 | Joseph M. Asher | 03-6162 | 7925 |
| 63710 7590 05/13/2008 | | | | |
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| EXAMINER | | | | |
| RENDON, CHRISTIAN E | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 3714 | | | | |
| MAIL DATE | | DELIVERY MODE | | |
| 05/13/2008 | | PAPER | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/687,302

Applicant(s)

ASHER ET AL.

Examiner

CHRISTIAN E. RENDÓN

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,8-10,12-15,19,20,22-26,30,33,35-37,41,43,44 and 46-72 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,8-10,12-15,19,20,22-26,30,33,35-37,41,43,44 and 46-72 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-846)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 2/26/08, 11/5/07, 9/17/07
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

This office action is in response to the amendment filed 2/6/08 in which applicant has amended claims 1, 3, 8-10, 12, 25-26, 30, 33, 35-37, 41, 43-44, 46; canceled claims 2, 4-7, 11, 16-18, 21, 27-29, 31-32, 34, 38-40, 42, 45; added claims 47-72; responded to the previous claim rejections. Claims 1, 3, 8-10, 12-15, 19-20, 22-26, 30, 33, 35-37, 41, 43-44 and 46-72 are still pending.

Examiner's Position

In the art of gambling, a wager is placed on an event based on the odds of the event not occurring. In other words, the probability of rolling a 4 on a six-sided die is $1/6$ so a gambling establishment represents the odds of the event as 5 to 1. Each type of bet is defined by a winning condition therefore each type of bet inherently has a different set of odds & level of risk compared to the other.

Place: the bettor must pick a horse that finishes either first or second

Exacta: the bettor must pick the first and second place winner in the same race, therefore the odds of winning the bet is the combination of horse **A** placing first and horse **B** placing second

Quinella: the same as Exacta except the order of the winners is irrelevant, therefore the odds of winning the bet is the combination of horse **A** and **B** placing first or second

Trifecta: the bettor must pick the horses that finish first, second, and third in the right order, therefore the odds of winning the bet is the combination of horse **A** placing first, horse **B** placing second and horse **C** placing third

Daily Double: the bettor must pick the winners of two successive races, therefore the odds of winning the bet is the combination of horse **A** and **B** placing first

The odds of an **Exacta, Quinella, Trifecta & Daily Double** bet are higher than one or multiple **Place** bets since a gambler can win two out of the three **Place** bets made and still collect the winnings of the

successful guesses. Therefore a gambler takes into consideration the odds and the level of risk when choosing a type of bet and an event.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 9 and 43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A third bet is placed when 'no combination of the determined odds at least approximates the desired odds' however the independent claim ends with the placing of a first and second bet. Therefore preventing this situation from ever occurring and if this situation does occur then the dependent claim's bet is a first bet not a third bet. In other words, the scope of the dependent claims is lost because of the vagueness in combination with taking into consideration the independent claims.

Claim Rejections - 35 USC § 102

Claims 1, 3, 8-10, 12-15, 19-20, 22-26, 30, 33, 35-37, 41, 43-44 and 46-72 are rejected under 35 U.S.C. 102(b) as being anticipated by Brenner et al. (US 5,830,068).

1. Brenner discloses a system for accepting off-track wagering using a totalisator (col. 5, lines 35-38), which is a computerized system that runs pari-mutuel bets, calculates and displays payoff odds on a racing event, and produces tickets based on incoming bets (col. 5, lines 38-40). Therefore sport betting on racing events like a horse race inherently incorporates a pari-mutuel betting system. The system is constructed as follow: the totalisator is located at a racetrack (col. 3, lines 35-36) and is connected to several off-site user terminals (col. 3, lines 20-21) through a network (Fig. 1). The user terminals will display racing data: odds, predicted and actual payoffs, handicaps, pools, and the weather (col. 4, lines 23-26). All of this information is provided for all races that have not started therefore the wagering has not been closed and is ongoing (col. 6, lines 5-7). After reviewing the

information, a user is allowed to select a race, a wager type and amount on one or more runners (col. 4, lines 32-34); therefore selecting one type of wager over another based on the available information. The system provides the odds to a user for several types of bets (col. 2, lines 57-59) like **Win, Place, Show, Exacta, Trifecta, Quinella & Daily Double** (col. 11, lines 28-33) which are a few of the many of types of bets that are typical to a horse race/track. The higher odds of winning and the lower payoff predictions are two indications that a **Quinella** and a **Trifecta** box are easier to win when compared to the odds and payoff of an **Exacta** or **Daily Double** bet (col. 6, lines 15-17).

2. Regarding claims 1, 12-14, 19, 23-25, 35-36, 46-56, 60-64 & 67-69, the system offers a user the ability to select from a group of participants or runners (col. 4, lines 32-34) for an event. When a user chooses to place an **Exacta, Quinella, Trifecta** or **Daily Double**, he or she will have to create a subset of participants that will all finish in one of the winning positions. Therefore a gambler has the power to customize the odds of his/her bet by choosing between a 'combination bet' such as: **Exacta, Quinella, Trifecta, Daily Double** or multiple single bets such as: **Place** bets for each horse (col. 12, line 31) when the risk level is too high or more than the desired odds. The Examiner views a gambler's decision of placing multiple single bets over a riskier 'combination bet' as making a first and second betting option to achieve the desired odds (col. 2, lines 57-59) based on the combination of the first and second odds.

3. Regarding claims 3, 10, 15, 22, 26, 33, 37, 44, 57 & 70, the Examiner views the terms total return and target percentage as analogous terms with payoff. The prior art displays to a gambler the payoff values of a wager amount for every available betting type (col. 6, lines 12-18). Therefore allowing a gambler to determine the payoff amount or percentage for a first, second and first in combination of second odds. As stated above, placing a 'combination bet' or multiple single bets require selecting from a plurality of participants. Furthermore, these participant selections are made based on the current odds and payoff values (col. 13, lines 39-41) or the target percentage.

4. Regarding claims 8, 20, 30, 41, 58-59, 66 & 71-72, the Examiner would like to state again that information associated with sports betting on horse races is inherent and incorporated by the reference. As stated above, a skilled gambler places bets knowing the odds and payoff values associated with the participants (col. 6, lines 1-19). When a gambler using the system places one or multiple bets, the funds required to complete the transaction are debited from a gambler's account (col. 7, lines 51-54), therefore allocating a portion of the gambler's funds (col. 12, line 59) to each of the selected participants.

5. Regarding claims 9 and 43, due to the confusion stated above the Examiner will ignore the term third. As stated above, all of the aspects of horse racing are inherent and incorporated by reference by the prior art. On occasion, the playing field is leveled for a set of competing horses by forcing the likely winner to carry lead weights during a race as an attempt to handicap the horse. When a horse is handicapped, the original odds for this horse to win are altered since the chances of win are lowered. The system discloses displaying actual and predicted payoffs, racing odds and handicapping information to a gambler (col. 2, lines 53-54). The system calculates for the gambler a rating for a horse based on different 'weights' for various handicapping categories (col. 3, lines 5-10). Therefore the system determines a set odds or rating based on a gambler's criteria and if the gambler finds them unfavorable then he/she can use the system to place some other bet.

Response to Arguments

Applicant's arguments filed 2/6/08 have been fully considered but they are not persuasive. Please see above for further clarification.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing

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date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTIAN E. RENDÓN whose telephone number is (571)272-3117. The examiner can normally be reached on 9 - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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